

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 30

Introduced by Senator Speier

December 9, 2004

An act to add Section 17206 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 30, as amended, Speier. Tax ~~Deductions~~ *deductions*: 529 College Savings Plans.

The Personal Income Tax Law, in modified conformity with the federal income tax laws, allows various deductions in computing the income that is subject to the taxes imposed by that law.

This bill, for taxable years beginning on or after January 1, 2005, would allow as a deduction *under that law the lesser of (1) the amount of contribution made contributed by a qualified taxpayer, as defined, on behalf of the beneficiary, to the Golden State Scholarship Trust, as specified to a qualified tuition program, as provided, or (2) \$3,000 in the case of a taxpayer who is single or is a married individual filing a separate return, and \$6,000 in the case of a taxpayer who is a married individual filing a joint return or an individual filing a head of household return.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 17206 is added to the Revenue and*
- 2 *Taxation Code, to read:*

1 17206. (a) For taxable years beginning on or after January
2 1, 2005, there shall be allowed as a deduction the lesser of the
3 amount contributed by a qualified taxpayer during the taxable
4 year to a qualified tuition program under Section 529 of the
5 Internal Revenue Code, as modified by Section 17140.3, or the
6 applicable amount determined under paragraph (2) of
7 subdivision (b).

8 (b) For purposes of this section, all of the following apply:

9 (1) Section 67(b) of the Internal Revenue Code, relating to the
10 definition of miscellaneous itemized deductions, is modified to
11 additionally provide that the deduction allowed under this
12 section is an itemized deduction that is not subject to the 2
13 percent floor on itemized deductions under Section 67(a) of the
14 Internal Revenue Code.

15 (2) The amount allowed as a deduction under subdivision (a)
16 shall not exceed the following:

17 (A) In the case of a taxpayer who is single or is a married
18 individual filing a separate return, three thousand dollars
19 (\$3,000).

20 (B) In the case of a taxpayer who is a married individual filing
21 a joint return or an individual filing a head of household return,
22 six thousand dollars (\$6,000).

23 (3) "Qualified taxpayer" means an individual who, on behalf
24 of a beneficiary, contributes money to a qualified tuition
25 program and meets all of the other applicable requirements of
26 Section 529 of the Internal Revenue Code, as modified by Section
27 17140.3.

28 (c) The deduction under subdivision (a) shall be taken with
29 respect to the taxable year in which the contribution is made and
30 shall be limited to the applicable dollar amount determined
31 under paragraph (2) of subdivision (b).

32 SEC. 2. This act provides for a tax levy within the meaning of
33 Article IV of the Constitution and shall go into immediate effect.

34 SECTION 1. ~~Section 17206 is added to the Revenue and~~
35 ~~Taxation Code, to read:~~

36 ~~17206. For taxable years beginning on or after January 1,~~
37 ~~2005, there shall be allowed as a deduction the amount~~
38 ~~contributed by a qualified taxpayer during the taxable year to a~~
39 ~~qualified trust.~~

40 ~~(b) For purposes of this section:~~

1 ~~(1) “Qualified trust” means the Golden State Scholarship~~
2 ~~Trust, a qualified state tuition program created pursuant to the~~
3 ~~Golden State Scholarship Trust Act (Article 19 (commencing~~
4 ~~with Section 69980) of Chapter 2 of Part 42 of the Education~~
5 ~~Code).~~

6 ~~(2) “Qualified taxpayer” means an individual who, on behalf~~
7 ~~of a beneficiary, contributes money to a qualified trust and meets~~
8 ~~all of the other applicable requirements of Section 529 of the~~
9 ~~Internal Revenue Code, as modified by Section 17140.3.~~

10 ~~(e) The deduction authorized by subdivision (a) shall be taken~~
11 ~~with respect to the taxable year in which the contribution is made~~
12 ~~and shall be taken only to the extent that the contribution amount~~
13 ~~does not exceed the amount allowed under Section 529 of the~~
14 ~~Internal Revenue Code, as modified by Section 17140.3.~~

15 ~~(d) In the event that any portion of the contribution is refunded~~
16 ~~by a qualified trust to the taxpayer for any reason, that amount~~
17 ~~shall be included in the taxpayer’s income for the taxable year in~~
18 ~~which it is received to the extent that the amount of contribution,~~
19 ~~or any portion thereof, was taken as a deduction in any earlier~~
20 ~~taxable year.~~

21 ~~(e) (1) Any refund of the contribution amount, which is made~~
22 ~~by a qualified trust to a taxpayer, shall be reported by the trust to~~
23 ~~the Franchise Tax Board in the year in which the refund is made.~~
24 ~~The trust shall furnish a copy of that report to the taxpayer.~~

25 ~~(2) If a refund is made to a taxpayer who is not a resident of~~
26 ~~the State of California in the year in which the refund is made,~~
27 ~~the Franchise Tax Board may, by regulation, require the trust to~~
28 ~~withhold an amount from the refund, determined by the~~
29 ~~Franchise Tax Board to reasonably represent the amount of tax~~
30 ~~due when that refund is included with other income of the~~
31 ~~taxpayer, and to transmit the amount withheld to the Franchise~~
32 ~~Tax Board at a time as it may designate.~~